IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

OP.No. 6804 of 2001(I)

PETITIONER:
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1. SARASWATHY, KAROTTE PUTHEN VEEDU,
   MAMPALLYKUNNAM, CHATHANNOOR.

2. DHANALAKSHMI, OF DO.DO.

3. JAYALAKSHMI OF DO.DO.

4. VIJAYALAKSHMI, OF DO.DO.

5. SIVAPRASAD (MINOR), REPRESENTED BY THE FIRST PETITIONER MOTHER

BY ADV. SRI.K.SUBASH CHANDRA BOSE

RESPONDENTS:
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1. THE COURT OF THE COMMISSIONER FOR WORKMEN'S COMPENSATION
   AND DEPUTY LABOUR COMMISSIONER, KOLLAM.

2. DEPUTY TAHSILDAR (RR), TALUK OFFICE, KOLLAM.

3. THE VILLAGE OFFICER, MEENAD VILLAGE, KOLLAM TALUK, KOLLAM.

4. SRI. VISWAMBHARAN, THEKKEVILA VEEDU, KOONAYIL,
   VEDUMGOLAM P.O., PARAVOOR, KOLLAM.

R4 BY ADV. SRI.M.RAMASWAMY PILLAI
SRI.S.AJITH
SRI.P.C.HARIDAS
SRI.P.M.JOSEPH
R1 TO R3 BY GOVERNMENT PLEADER SMT. SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 22/11/2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 11204 OF 2001 IN OP 6804 OF 2001

DISMISSED

22.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE COPY OF THE DEATH CERTIFICATE DATED 25.7.1997

EXT.P2 TRUE COPY OF THE DEATH CERTIFICATE ISSUED FROM THE CORPORATION OF TRIVANDRUM.

EXT.P3 TRUE COPY OF THE ORDER DATED 15.7.2000

EXT.P4 TRUE COPY OF THE REVIEW PETITION DATED 24.8.2000

EXT.P5 TRUE COPY OF THE DEMAND NOTICE SERVED TO THE FIRST PETITIONER ON 14.2.2001

4TH RESPONDENT'S EXHIBITS:

EXT.R4(a) TRUE COPY OF THE JUDGMENT DZTED 28.10.1998 IN WCC 58/95

EXT.R4(b) TRUE COPY OF THE WRITTEN STATEMENT FILED DATED 3.4.1996

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 6804 OF 2001

Dated this the 22nd day of November, 2007

JUDGMENT

The first petitioner is the widow of a workshop owner against whom compensation was awarded for the death of an employee whose father is the fourth respondent. Petitioners 2 to 5 are children of the deceased person. O.P. is filed challenging recovery proceedings against legal heirs for recovery of compensation awarded. The award is not under challenge in this Court. However, the case of the petitioners is that deceased has left no assets to be proceeded against. If deceased has left assets and inherited after his death by petitioners, the said property can be proceeded against for recovery. Similarly, if any property was transferred by the defaulter which is hit by Section 44 of the RR Act that is transfer in contemplation of liability, then the recovery authority is free to ignore the transaction and proceed with recovery. However, self-acquired property of the petitioners should not be proceeded against and there shall not be any personal recovery against any of the petitioners, as the award is not against them

personally. Petitioners are directed to produce details of movable and immovable properties held by them before the second respondent for him to consider defaulter's right therein and if so to proceed against his property in recovery proceedings. If recovery is compelled then arrears should be recovered with interest and paid to the fourth respondent. However, if petitioners make payment within one month from the date of receipt of a copy of this judgment, then the interest payable shall stand fully waived. If there is settlement, petitioners can pay the balance amount after setting off the amount already paid in terms of interim orders of this Court.

O.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge